

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

IN ADMIRALTY

CASE NO.: 0:23-CV-60355-AHS

In the Matter of the Complaint for Exoneration
From or Limitation of Liability by EASTWINDS CO,
LLC as Owner of Motor Yacht JOAN'S ARK,
Official Number: 1150796, IMO: QEO12122C303

Petitioner.

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**PETITIONER, EASTWINDS CO, LLC'S OBJECTION TO CLAIMANTS' NOTICE OF
FILING AMENDED STIPUATIONS IN RESPONSE TO AND IN COMPLIANCE
WITH ORDER (DE 31)**

COMES NOW, Petitioner, EASTWINDS CO, LLC ("EASTWINDS"), by and through its undersigned counsel, hereby files its Objection to Claimants' Notice of Filing Amended Stipulations in Response to and in Compliance with Order (DE 31) found in Docket Entry 32 (the "Notice") and briefly notes that the convoluted language proposed by Claimants fails to clearly "stipulat[e] that it will never seek" to enforce a judgment in excess of the limitation fund. Order [DE 31] at 6. The Stipulation should plainly state that "If th[is] Court grants Petitioner's request for exoneration, there shall be no recovery from Petitioner, and any claim based upon attorneys' fees and costs will not be collected." *In re Black*, No. 16-cv-81937, 2017 U.S Dist. LEXIS 183071, at *4 (S.D. Fla. July 11, 2017) (Stipulation number 5).

Addressing limitation, the Stipulation should plainly state that "In the event this Court determines that the Petitioner is entitled to limit its liability, the Claimant[s] agree[] that [they] will not seek to enforce any judgment that would require the Petitioner to pay damages in excess of the limitation fund to be determined by this Court." *See, e.g., Offshore of the Palm Beaches*,

Inc. v. Lynch, 741 F.3d 1251, 1254 (11th Cir 2014) (Stipulation number 4). Further, Stipulation number 3 only limits judgments obtained “in state court” and does not address the possibility of Claimants proceeding in any other court or tribunal. *In re Black*, 2017 U.S Dist. LEXIS 183071, at *4-5. Respectfully, Claimants should stipulate that any judgment in any forum outside of the limitation action should be limited. *Id.* at *4 (stipulating to limitation and exoneration in any “ruling, judgment, or decision of any state court or other forum”); *see also Offshore of the Palm Beaches*, 741 F.3d at 1254 (Stipulations 3 and 4; “Claimant will not seek a determination of the issues set forth in paragraphs (1) and (2) above in any state court, or any other forum outside of this limitation proceeding”).

WHEREFORE, Petitioner, EASTWINDS CO, LLC respectfully requests this Court deny Claimants’ stipulations as proposed as they fail to adequately protect Petitioner’s rights to exoneration and limitation of liability solely before this Court.

Respectfully submitted,

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/s/ Michelle Otero Valdés

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CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this way on all counsel of record or pro se parties identified on the attached service list in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Michelle Otero Valdés
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